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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,070	10/31/2003	Bernhard Awolin	J&J-5083	3738

27777 7590 10/03/2006

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EXAMINER	
HAND, MELANIE JO	
ART UNIT	**PAPER NUMBER**
3761	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,070	AWOLIN ET AL.	
	Examiner	Art Unit	
	Melanie J. Hand	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed July 10, 2006, with respect to the rejection(s) of claim(s) 1-12 and 14-39 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art reference(s).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Jr. (U.S. Patent No. 5,185,010) in view of Olson et al (U.S. Patent No. 5,916,205) and further in view of Li et al (U.S. Patent Application Publication No. 2002/0169429).

With respect to **Claims 1,4,5,7,9-16,19,20,22,24:** Brown teaches a tampon formed from absorbent material 12 cut into a rectangle with outer end 21 having a length, thickness and width, wherein said width is measured between the two edges of absorbent material 12 that will correspond to the introduction and withdrawal ends of the tampon once said tampon is formed. The rectangular tampon precursor material also contains liquid-permeable plastic overwrap material 10 adhered to inner surface 13 of absorbent material 12 to form seal 16. Overwrap material 10 extends beyond the outer edge 21 of material 12 to form tab 14. Overwrap 10 is considered herein to have a width generally corresponding to the width of material 12 since the

fold over regions 18 are narrow. Seals 16 are formed at the edge of absorbent material 12 that corresponds to the withdrawal end of said tampon. A tampon is formed by winding absorbent material 12 in a spiral fashion starting at end 20. (Fig. 1c) (Col. 2, lines 67,68)

Neither Brown nor Olson teaches an overwrap material having a liquid-resistant zone. Li teaches that the treatment of hydrophobic materials with surfactants to increase their hydrophilicity is known in the art therefore it would be obvious to one of ordinary skill in the art to treat the overwrap taught by Brown with a surfactant in certain portions of the overwrap that overlie the absorbent core and contact the vaginal wall of the user such that the overwrap 10 has a liquid-permeable zone and a liquid-resistant zone, wherein the portion of overwrap 10 that folds over said second edge is not treated and thus remains liquid-resistant.

With respect to **Claim 6,21,27:** Brown teaches that the overlap material must be heat-sealable and that it is a thermoplastic nonwoven, but does not explicitly teach an apertured film. Olson teaches cover material 102 for forming covers 46 for plural devices 20 that comprises an apertured thermoplastic film. ('205, Col. 20, lines 28-30, 33) With respect to Claim 27, by teaching an apertured film, Olson is also teaching that perforations can be made in cover material 102 that enable the separation of adjacent absorbent segments from one another in the production process, said perforations or apertures defining separation lines. Olson teaches that this is a suitable material for a cover sheet for an absorbent interlabial device ('205, Col. 20, lines 30-32), therefore it would be obvious to modify the overwrap material taught by Brown to further comprise an apertured thermoplastic film as taught by Olson.

With respect to **Claim 8,23:** Neither Brown nor Olson explicitly teaches an overlap material 10 that is treated to be liquid impermeable. Li teaches that treating nonwoven webs to change their hydrophilicity (including eliminating the hydrophilicity) is known in the art.

With respect to **Claims 17,18:** Brown teaches that different sealing methods may be used and specifically cites heat sealing and adhesives. ('010, Col. 3, lines, 27, 28, 52, 53)

With respect to **Claims 25,35:** Please see the rejection of Claim 1 in addition to the following: Brown does not teach attaching a plurality of absorbent elements 12 to a continuous sheet of overwrap material 10. Olson teaches a process for forming plural interlabial devices comprising the steps of placing plural slivers of absorbent material 100 to a web of cover material 102, bonding said cover material to said absorbent material, feeding said structure through rollers that roll the cover material 102 around the absorbent sliver 100 and bond the two free edges of cover material 102 together, and cutting the continuous bonded absorbent-cover web in the cross direction. Olson teaches that this process forms a plurality of interlabial devices at one time. While this procedure is intended to form several devices, Examiner considers this process fully applicable to the teaching of Brown, wherein said process is capable of forming a tampon by placing multiple slivers of absorbent material 12 on a continuous web of overwrap material, and subsequently winding the resulting structure into a tampon as taught by Brown, said tampon having plural absorbent segments 12, having a length and width oriented parallel to the length and width dimensions of overwrap material 12. therefore it would be obvious to one of ordinary skill in the art to modify the process of forming a tampon taught by Brown so as to utilize the process taught by Olson to accommodate the production of a tampon having plural absorbent segments.

With respect to **Claims 28,29:** Brown does not teach a plurality of absorbent segments and thus does not teach perforations in said overwrap material. Since Olson teaches that cover material 102 is a polypropylene nonwoven, which is stretchable, therefore the space between adjacent absorbent segments 100 can be thinned simply by applying a longitudinal force to stretch the cover material 102. Thinning the material would provide a noticeable demarcation between adjacent segments and is an alternate method for creating a separation line or area to the method taught by Olson involving using apertured cover material 102. In the instant case substitution of equivalent methods requires no express motivation, as long as the prior art recognizes equivalency, *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 85 USPQ 328 (USSC 1950).

With respect to **Claim 30:** Brown teaches severing overwrap material between individual absorbent material pieces 12.

With respect to **Claim 31:** Brown teaches that the overwrap material is attached to the absorbent material by heat-sealing.

With respect to **Claim 32:** Brown teaches that the overwrap material is also adhered via pressure to the absorbent material, which implies the presence of adhesive.

With respect to **Claim 33:** Brown teaches compressing the tampon blank subsequent to winding it about a central axis.

With respect to **Claims 34,37,39:** Brown does not explicitly teach that the overwrap material is comprised of at least two webs joined together, however it would be obvious to one of ordinary skill in the art to add additional identical polymeric nonwoven webs to the overwrap material taught by Brown to forma laminate so as to prevent leakage from the core and lend structural integrity to the tampon wherein the second web defines the liquid-impermeable zone.

With respect to **Claim 36:** Brown teaches that the overlap material must be heat-sealable and that it is a thermoplastic nonwoven, but does not explicitly teach an apertured film. Olson teaches cover material 102 for forming covers 46 for plural devices 20 that comprises an apertured thermoplastic film. ('205, Col. 20, lines 28-30, 33) With respect to Claim 27, by teaching an apertured film, Olson is also teaching that perforations can be made in cover material 102 that enable the separation of adjacent absorbent segments from one another in the production process, said perforations or apertures defining separation lines. Olson teaches that this is a suitable material for a cover sheet for an absorbent interlabial device ('205, Col. 20, lines 30-32), therefore it would be obvious to modify the overwrap material taught by Brown to further comprise an apertured thermoplastic film as taught by Olson.

With respect to **Claim 38:** Neither Brown nor Olson explicitly teaches an overlap material 10 that is treated to be liquid impermeable. Li teaches that treating nonwoven webs to change their hydrophilicity (including eliminating the hydrophilicity) is known in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH
September 29, 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER